

shall be allowed: (7) And that every such Plaintiff or Plaintiffs, Informer or Informers, shall in every such Suit and Prosecution, have and receive his treble Costs against the Per-
478 son and Persons offending and *forfeiting, as aforesaid; any Law, Custom or Usage to the contrary notwithstanding.

I. The Inconvenience of immoderate and unlawful Use of Gaming. 5 Mod. 1, 4, 35.

II. Deceits and Cousenages in Gaming. See 9 Annæ, c. 14. The Penalty. How to be sued for and recovered.

III. Prevention of excessive and immoderate Gaming. 1 Lutw. 180. 2 Mod. 54. 1 Salk. 344. The Penalty.

In *Brown v. Lesson*, 2 H. Black. 43, it was decided that an action would not lie upon a wager as to the number of ways of nicking seven on the dice in a game of hazard, allowing seven to be the main and eleven to be a nick to seven, and that the judge at *nisi prius* did right in ordering such a cause to be stricken out of the paper. This case, however, was contrary to the earlier one of *Pope v. St. Leger*, 1 Salk. 344; S. C. 4 Mod. 409; 5 Mod. 1, where, at a play at backgammon, one of the players stirred one of his men but did not move it from the point, and the question was whether he was bound to play it; upon which a wager of 100 guineas was laid, and the determination left to the groom-porter, who decided that he was not; this was held not within the Statute, for the money was not lost on the chance of the play, but on the right of the play, i. e., the rules of the game, which is a collateral matter. The judgment was reversed for a fault in pleading. But now by the Code, Art. 30, sec. 61,¹ it is provided, that any person who may lose money at a gaming table may recover back the same as if it were a common debt; and may be a competent witness to prove the sum he lost, *but no person shall recover any money or other thing which he may have won by betting at any game, or by betting in any manner whatsoever*; which latter clause is codified from the Act of Dec. 1813, ch. 84. By sec. 62,² all games, devices and contrivances, at which money or any other thing shall be bet or wagered, shall be deemed a gaming table within the meaning of the preceding sections, and by sec. 64,³ the Courts are to construe those sec-

¹ Code 1904, Art. 27, sec. 210.

² Code 1904, Art. 27, sec. 211. Articles designed to be used in violation of the criminal law, and which can be used for no legitimate purpose, may be summarily seized by the police under their statutory duty to prevent crime; but a gambling instrument intended to be used in violation of law, but which can also be used for a legitimate purpose, cannot be thus seized until it has been determined in a criminal proceeding that the article was held or used for an illegal purpose by the person from whose possession it is taken. *Police Com'rs v. Wagner*, 93 Md. 182; *Wagner v. Upshur*, 95 Md. 519.

³ Code 1904, Art. 27, sec. 213.